

Decision 02-12-049 December 17, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 1999. (U 39 M)

Application 97-12-020
(Filed December 12, 1997)

Investigation into the Reasonableness of Expenses Related to the Out-Of-Service Status of Pacific Gas and Electric Company's El Dorado Hydroelectric Project and the Need to Reduce Electric Rates Related To This Non-Functioning Electric Generating Facility.

Investigation 97-11-026
(Filed November 19, 1997)

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Decrease its Rates and Charges for Electric and Gas Service, and Increase Rates and Charges for Pipeline Expansion Service.

Application 94-12-005
(Filed December 9, 1994)

Order Instituting Investigation Into Rates, Charges, and Practices of Pacific Gas and Electric Company.

Investigation 95-02-015
(Filed February 22, 1995)

**OPINION ON PETITION OF THE OFFICE OF RATEPAYER ADVOCATES
FOR MODIFICATION OF DECISION 01-10-059,
AS MODIFIED BY DECISION 02-06-003**

1. Summary

This decision modifies Decision (D.) 01-10-059, as modified by D.02-06-003, to remove the goal for a specific decision date for completion of Pacific Gas and Electric Company's (PG&E) test year (TY) 2003 General Rate Case (GRC).

2. Background

D.01-10-059 required PG&E to tender a notice of intent (NOI) for a TY 2003 GRC by November 14, 2001. The same decision adopted a goal of having new rates in place by January 1, 2003. D.02-04-018 subsequently approved a proposal by PG&E to tender its NOI for a TY 2003 GRC by April 15, 2002. PG&E tendered its NOI on April 15, 2002.

Approximately seven weeks after the NOI was tendered, the Commission issued D.02-06-003. Noting that the NOI filing contemplated by D.01-10-059 had been delayed by five months, D.02-06-003 modified the goal set forth in D.01-10-059 of completing the TY 2003 GRC to June 1, 2003. It further directed the assigned administrative law judge to develop an expedited schedule within that time frame. (D.02-06-003, Ordering Paragraph 2.) At the time the decision was issued, the Commission contemplated that the Application would be filed by July 30, 2002. (*Id.*, p. 5, fn. 3.) PG&E filed its TY 2003 GRC application, Application (A.) 02-11-017, on November 8, 2002. PG&E proposes a schedule in its application to meet the June 1, 2003 date set forth in D.02-06-003.

The Office of Ratepayer Advocates (ORA) filed a petition to modify D.02-06-003 on November 20, 2002. Administrative Law Judge (ALJ) Wetzell issued a ruling on November 22, 2002 shortening the time to respond. ORA requests that the Commission modify the requirement in D.02-06-003 to adopt an expedited schedule to allow for a June 1, 2003 decision. ORA states that it is "a practical impossibility for ORA to meaningfully participate in PG&E's TY 2003

GRC” if it is required to submit testimony by December 27, 2002 or January 24, 2003, the dates proposed in PG&E’s application. ORA suggests that rather than setting a specific goal decision date, the ALJ be directed to adopt a schedule consistent with the goal of promoting meaningful participation of staff and intervenors. ORA further requested that comments on the draft decision resolving its petition be waived.

PG&E and The Utility Reform Network (TURN) filed responses to the petition. TURN strongly supports ORA’s petition and urges the Commission to acknowledge the goal of a June 1, 2003 decision date as unrealistic given the filing date of the GRC and the fact that staff and intervenors are simultaneously participating in Southern California Edison Company’s (SCE) GRC. TURN points out that in the SCE GRC, the current schedule assumes 15 months between the filing of the application and a Commission decision. PG&E does not oppose ORA’s petition to alter the June 1, 2003 decision date, but “urges the Commission not to abandon its previously expressed commitment to process PG&E’s 2003 GRC expeditiously.”¹ Specifically, PG&E recommends that the Commission modify D.01-10-059, as modified by D.02-06-003, to adopt a new decision date of December 31, 2003 as its goal for processing the GRC. Neither party opposed ORA’s request to waive comments on the draft decision resolving its petition.

ORA filed a reply to the responses urging that December 31, 2003, the goal for a decision date suggested by PG&E, not be adopted at this time.

¹ PG&E also reiterates its request that the Commission act on its motion requesting that the revenue requirement ultimately adopted in A.02-11-017 be made effective as of January 1, 2003. That motion is being addressed in a separate decision.

3. Discussion

We have reviewed the petition, responses, and reply and conclude that the June 1, 2003 goal included in D.01-10-059, as modified by D.02-06-003, is unrealistic, given that PG&E did not file its GRC until November 8, 2002. The June 1, 2003 date had been set with the expectation that PG&E would file its TY 2003 GRC on July 30, 2002. In the meantime, several parties, not including PG&E, are fully engaged in preparing for and testifying in SCE's GRC, which is scheduled to conclude 15 months after the application was filed.

PG&E argues that we should adopt a new goal of a decision date of December 31, 2003. While we appreciate PG&E's interest in, and share its goal of, processing its TY 2003 GRC (A.02-11-017) expeditiously, we decline to adopt a specific goal for a decision at this time. Based on the information we have before us at this time, it is clear that the parties have significant resource constraints based on their involvement in the SCE GRC, but without further detailed information, which we expect would be explored by the assigned ALJ and Commissioner in A.02-11-017, we cannot adopt a realistic schedule at this time. Instead, we to reiterate our interest in the proceeding being handled in a timely manner, but leave the responsibility to set a procedural schedule to the assigned ALJ and Commissioner, based on an informed review of the resources and constraints of all the parties. Therefore, we will grant ORA's petition to modify D.01-10-059, as modified by D.02-06-003, to remove the requirement that the ALJ adopt a schedule to meet a specific target decision date.

4. Waiver of Comment Period

Based on the unopposed request of ORA, and pursuant to Rule 77.7(f)(9), the otherwise applicable 30-day period for public review and comment is being waived. We conclude that the public interest in resolving this petition

expeditiously outweighs the public interest in receiving comments on the draft decision.

5. Future Requests to Modify Decisions

Now that A.02-11-017 is underway, any requests to modify decisions made in A.97-12-020, Investigation (I.) 97-11-026, A.94-12-005, or I.95-02-015 should be filed in A.02-11-017.

6. Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Mark Wetzell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. ORA and TURN will be unable to participate effectively in A.02-11-017 if a June 1, 2003 target decision date is retained.
2. The assigned ALJ and Commissioner should establish a schedule to allow for timely processing of this case

Conclusions of Law

1. ORA's petition for modification of D.01-10-059, as modified by D.02-06-003, should be granted by modifying the text, Finding of Fact 2, and Ordering Paragraph 4 of that decision to remove a specific goal decision date for completing PG&E's TY 2003 GRC.
2. This proceeding should remain open to resolve other pending matters.

O R D E R

IT IS ORDERED that:

1. The Office of Ratepayer Advocate's (ORA) petition for modification of Decision (D.) 01-10-059, as modified by D.02-06-003, is granted to the extent set forth in Ordering Paragraph 2.

2. D.01-10-059, as modified by D.02-06-003, is modified as follows:

- a. Delete the last full sentence at the bottom of page 3 which begins “We will adhere”.Also delete the following sentence which continues over to the top of page 4.
- b. On page 4, delete the last two sentences of the partial paragraph at the top of the page and replace with the following: “We direct the assigned administrative law judge to set a schedule which recognizes staffing constraints faced by staff and intervenors and which provide parties with a realistic opportunity to adequately address the reasonableness of PG&E’s rates.”
- c. Finding of Fact 2 of D.01-10-059, as modified by D.02-06-003, should be amended by deleting the following language from the end of the sentence: “that would be processed by June 1, 2003.”
- d. Ordering Paragraph 4 of D.01-10-059, as modified by D.02-06-003, should be deleted and replaced by the following: “The assigned administrative law judge is directed to develop a schedule to complete a TY 2003 GRC as soon as possible, which recognizes staffing constraints currently faced by staff and intervenors, provides parties with a realistic opportunity to adequately address the reasonableness of PG&E’s requested revenue requirement, and is consistent with the Commission’s goal of issuing a final decision in this case expeditiously.”

3. Any future requests to modify decisions made in Application

(A.) 97-12-020, Investigation (I.) 97-11-026, A.94-12-005, or I 95-02-015 shall be filed in A.02-11-017.

This order is effective today.

Dated December 17, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners